Department of Justice Canada | Ministère de la Justice Canada

Canada

Speaking Notes for the Honourable Irwin Cotler
Minister of Justice and Attorney General of Canada

Towards a National Justice Initiative Against Racism and Hate

Saint Paul University, Ottawa

Monday, May 9, 2005

CHECK AGAINST DELIVERY

I am delighted to participate in the common cause which brings us together: the struggle against racism, against hatred, against discrimination, against injustice – and this as part of the larger struggle for equality, human rights and human dignity in our time.

We meet at a historical moment of remembrance and reminder – on the 60th anniversary of Holocaust remembrance and the 60th Anniversary of VE Day – where we must ask ourselves what have we learned? What must we do?

With this in mind – and on this historic occasion – may I share with you a National Justice Initiative Against Racism and Hate – a distinct component of the National Action Plan Against Racism – a policy-oriented and programmatic initiative organized around the following 13-point anti-racism and anti-hate agenda, and underpinned by the lessons of history – and today.

1) Dangers of Assaultive Racism and Hate: The Chilling Facts of History

One of the enduring lessons of Nazism – the ultimate metaphor for radical evil – is that Nazism almost succeeded not only because of the industry of death and technology of terror, but because of the ideology – the pathology – of hate. Indeed, it was this state-sanctioned teaching of contempt, this standing assault on human security, this is where it all begins.

As the Supreme Court of Canada put it in affirming the constitutionality of anti-hate legislation in Canada, "the Holocaust did not begin in the gas chambers. It began with words." These, as the Court put it, "are the chilling facts of history – the catastrophic effects of racism."

Some 60 years later, these lessons not only remain unlearned, but the tragedy has been repeated. For we have been witness to a continuing state-sanctioned trafficking in hate, to a murderous teaching of contempt, to a demonizing of "the other," which in Bosnia, and Rwanda included state-orchestrated incitement to hatred, ethnic cleansing, and genocide.

Moreover, even in Western democracies – and in our country, Canada – we have been increasingly witness these past few years to a growing incidence and intensity of racism, hate speech and hate crimes against identifiable groups. Indeed, after a series of such assaults in Ontario in March 2004 – the vandalizing of synagogues, the desecration of cemeteries, attacks on Jews and Jewish property – I was asked in the House of Commons what was the Government of Canada going to do in the face of this growing incidence of these anti-Semitic and racist hate crimes, which was to later include the firebombing of a Jewish day school in Montreal and the torching of a mosque in Ontario.

My answer in the House of Commons – a response anchored in the principles of Canadian and international human rights jurisprudence respecting the combating of assaultive speech – was that this racist hate speech constituted an assault:

- on the inherent dignity and worth of the human person;
- on the equal dignity and worth of all persons;
- on underlying values of a free and democratic society targeted by "assaultive" speech;
- on the right of minorities to protection against group-vilifying speech;
- on our international treaties, such as the *International Convention on the Elimination of All Forms of Racial Discrimination*, which have removed racist hate speech from the ambit of protected speech.

And I concluded by declaring that: "We will not be silent. We will speak out. We will act. And we will consign these hate crimes to the dustbin of history where they belong."

And we have acted:

- The Speech from the Throne identified the importance of combating racism, hate speech and hate crimes both domestically and internationally.
- We announced the first-ever National Action Plan Against Racism;
- We established a Cross-Cultural Roundtable on National Security to address concerns felt by visible minorities.

In brief, what is needed – both in fidelity to international law and fidelity to our Constitution – is a culture of respect in place of a culture of contempt – a culture of human rights in place of a culture of hate. The message of our democracies – and our governments – must be clear: there can be no sanctuary for hate, no refuge for bigotry. The awareness of the substantial harm – the dangers – caused by racist hate speech – and the need for a Justice Initiative to combat it – is the first of the lessons learned and actions to be taken.

2) The Dangers of Indifference and the Consequences of Inaction: The Imperative for Moral Leadership

The genocide of European Jewry succeeded not only because of the culture of hate and industry of death but because of crimes of indifference, because of conspiracies of silence. And we have witnessed an appalling indifference and silence in our own day which took us down the road to the unthinkable – ethnic cleansing in the Balkans – and down the road to the unspeakable – the genocide in Rwanda – made even more unspeakable because this genocide was preventable. No one can say that we did not know. But we did not act. And we did not act in the genocide by attrition in Darfur.

And so, it is our responsibility to break down these walls of indifference, to shatter these conspiracies of silence – to stand up and be counted and not look around to see whoever else is standing before we make a judgment to do so – because in the world in which we live, there are few people prepared to stand, let alone be counted.

The words of Edmund Burke come back to haunt us – "the surest way to ensure that evil will triumph in the world is for enough good people to do nothing."

In a word, and we must adhere to this ourselves if we are to convey this to others: indifference in the face of evil – whether of individuals or states – is acquiescence in, if not complicity with, evil itself. It is not only abandonment of the victim; it is encouraging the victimizer.

What is required is moral leadership on the part of government – the willingness to speak and the willingness and the commitment to act – in the pursuit of justice.

3) Towards a Common Front Against Racism: The Role of Civil Society

While the growing incidence and intensity of racist hate speech against identifiable groups in Canada has been a disturbing phenomena – and one in which Jews and Muslims have been the principal targets of racist hate crimes – the response of civil society – the emergence of a common front against racism – has been most encouraging.

For example, following the firebombing of the Jewish Day School in Montreal and the torching of a mosque in Ontario, we witnessed a clear and concerted condemnation of these heinous acts by a consortium of civil society, anti-racist groups, civil liberties, and visible-minority groups.

As well, shortly after these incidents, I visited with representatives of eight faith groups in Toronto where a mosque and a synagogue are adjacent to each other and share a common driveway. I spoke to them of the need for a common front against hate, for the mobilization of a constituency of conscience, of solidarity with the victims – where Jews speak up when Muslims are attacked, and Muslims speak up when Jews are attacked, and both speak out together in concert with others when any of our vulnerable minorities are targeted.

Indeed, what we envisage is a *partenariat* between government and civil society where government will:

- join civil society in a common front against racism – in the mobilization of a constituency of conscience against hate;
- develop partnerships with ethno-cultural community groups to ensure that policies and programs reflect the needs of an increasingly multicultural population;
- continue to support ethno-racial and ethno-cultural initiatives by providing, through the Justice Partnership and Innovation Fund, funding for projects that address emerging issues and that disseminate information on justice-related anti-racism issues;
- promote consultation through initiatives such as the Cross-Cultural Roundtable and the Ad Hoc Advisory Committee.

4) Combating Hate Through Law and Legal Remedy: The Importance of a Comprehensive Legal Regime

In the words of the European Commission Against Racism and Intolerance (ECRI):

> *The law is a powerful weapon for combating racism, xenophobia, anti-Semitism and intolerance. Adequate legal protection offers a remedy to individuals, and affirms the relevant authorities' firm opposition to racism in all of its forms. Moreover, the fact that Parliaments have declared racism and intolerance to be unacceptable in this society has an important educational impact on people.*

Accordingly, if law is a "powerful weapon" in combating racism and hate and all forms of intolerance, the question becomes: what legal regime – or more particularly, what typology of legal remedies – can we suggest to combat racism, xenophobia, anti-Semitism and other forms of related intolerance? More particularly, what are some of the legal remedies – the "best practices" – that can be distilled from an appreciation of the best of the international and domestic legal remedies?

May I identify some of these remedies as follows:

- The use of the **criminal law remedy**, including the criminalization of hate speech, to prohibit, *inter alia*, the wilful promotion of hatred and contempt against identifiable groups in a public place.
- Enhanced penalties for **hate crimes** where hate or bias motivation is factored in as an aggravating circumstance in the sentencing process.
- **Hate-specific offences** for the vandalization of religious property.
- **Judicial orders** to delete computer-based racist hate speech.
- **Criminal law enforcement remedies** where provision is made for the seizure and forfeiture of hate propaganda kept on premises for distribution or sale.
- The characterization of the **promotion of hate as a discriminatory practice** in human rights legislation.
- The **use of administrative/regulatory statutory law remedies** – and related administrative tribunals – to proscribe the use of the mails for the dissemination of hate propaganda, as in the *Canada Post Corporation Act*, including the provision for interim prohibitory orders; and the prohibition in the Canadian *Customs Tariff Act* of the importation of publications that constitute hate propaganda under the *Criminal Code.*
- **Broadcasting legislation and policy** that excludes the promotion of hatred or contempt against an identifiable group from the ambit of protected speech as, for example, in the regulations of the *Canadian Radio and Television Commission.*
- **Group libel civil legislation** which makes it an offence to promote, through conduct or communications, "hatred or contempt of a person, or class of persons, or to publish a libel likely to expose persons to hatred, contempt or ridicule and which authorize both injunctive relief and an actionable claim by the person or by a member of the class of persons . . . ."
- The most **comprehensive anti-hate jurisprudence** of any democracy, including the validation by the Supreme Court of international human rights law and remedy to prohibit racist hate speech.

In brief, the importance of this comprehensive criminal, constitutional, international, administrative and civil regime against hate resides in the protection afforded the targets of hate, in the panoply of rights and remedies available to victims of hate, and in the symbolic messages that such a comprehensive legal regime sends about the commitment of state and society to the combating of hate.

5) Promoting Equality, Multiculturalism and Respect for Diversity and Difference as an Antidote Against Hate

It is not only the combating of racist hate crimes through a comprehensive legal regime that is important. There is also the spectrum of initiatives for the promotion and protection of equality, multiculturalism and human dignity, including:

- the constitutionalization of equality rights – including affirmative-action initiatives;
- the express constitutional protection of Aboriginals, minorities, women, and identifiable groups;
- the domestication of international human rights norms, both in the enactment of domestic law pursuant to international treaties such as the *Convention on the Elimination of All Forms of Discrimination,* and in the invocation of international human rights law for the effective interpretation and application of domestic legislation;
- the comprehensive anti-discrimination federal and provincial regimes;
- the comprehensive remedial schemes in the *Canadian Human Rights Act* – and the provision for private law remedies – for the protection of equality and human dignity;
- the constitutional and statutory protections for multiculturalism, including the preservation

and enhancement of our multicultural heritage;

- the important Canadian jurisprudence on these matters;
- the promotion of dialogue through forums to promote respect for diversity and differences, such as the forum with Aboriginal youth and Winnipeg police members to discuss perception and ideas for an improved relationship between the two groups ($56,000 provided to the Assembly of Manitoba Chiefs Youth Secretariat in 2003-04 to arrange a series of such forums).

6) Protecting the Vulnerable: The Right to Protection against Group-Vilifying Hate and Discrimination

The ethnic cleansing and genocides of the twentieth century succeeded not only because of the vulnerability of the powerless, but because of the powerlessness of the vulnerable. This vulnerability of the powerless which was not unrelated to the powerlessness and subsequent persecution of the vulnerable on the grounds of the identifiable – or persecutable – group to which they belonged; and the nullification or exclusion of their rights on the basis of some prohibited form of discrimination, be it race, religion, ethnicity, national origin, or the like.

Indeed, it is not surprising that the triage of Nazi racial hygiene – the sterilization laws, the Nuremberg laws, the euthanasia laws – targeted those "whose lives were not worth living"; and it is not unrevealing, as Professor Henry Friedlander reminds us in his work *The Origins of Nazi Genocide*, that the first group targeted for killing were the Jewish disabled, the whole anchored in the science of death, the medicalization of ethnic cleansing, the sanitizing even of the vocabulary of discrimination and destruction.

And so it is our responsibility as political leaders, as NGOs, as experts, as *citoyens du monde*, to give voice to the voiceless as we seek to empower the powerless – be they the disabled, the poor, visible minorities, the refugee, the targets of racism – whoever they may be; while we seek to combat, if not eliminate, disparities in access to economic and social rights so as to combat if not eliminate these root causes of prejudice and discrimination.

Accordingly, the National Justice Initiative will seek to assist groups vulnerable to racism and related forms of discrimination through:

- the Cities Project for Aboriginal youth, which helps youth at risk;
- the Youth Justice Renewal Fund, which supports community-based options under the *Youth Criminal Justice Act*;
- the Aboriginal Justice Strategy, which is geared at reducing crime and incarceration among Aboriginal people;
- participation in research and outreach into the effects of the *Anti-terrorism Act* on ethno-cultural communities; and
- the Aboriginal Courtworker Program, which assists in ensuring fair and culturally sensitive treatment.

7) Restorative Justice: A New Paradigm for Combating Hate Crimes and Protecting its Victims

Traditional criminal law regards crime as an act against the state, but crime in general and hate crimes in particular are not matters of abstraction. Indeed, hate crimes involve the targeting of, and impact upon, a specific and identifiable victim, the identifiable group to which that victim belongs, and the prejudicial fallout for society as a whole.

The restorative justice model is a way of viewing justice that emphasizes healing the relationships that have been broken by conflict and crime, something that is particularly applicable to hate

crimes. The focus is on attempting to address the harm that was caused by the wrongful act, as well as the actual punishment of the hate crime itself. Victims, offenders and community members can participate together in dealing with the impact of the hate crime and in developing an appropriate response to it. Models include sentencing circles, victim-offender mediation, etc.

Although the issue of restorative justice can be controversial, there are several hundred such programs and initiatives currently in use throughout the country. The Department of Justice itself is active in promoting the use of restorative justice through policy, research and programs, particularly in the area of youth justice and Aboriginal justice. For example, Justice will seek to expand YRAP – the Youth Restorative Action Team – involving restorative approaches to offences motivated by racism and intolerance. Justice contributed $42,000 in 2004-05, and will contribute $21,000 in 2005-06 to expand the program into Ottawa and to explore the feasibility of expanding it to Toronto and to Canada as a whole.

As well, Justice will respond to the special needs of victims of hate crimes by conducting consultations and research to identify the special needs of victims of hate crimes in the initial phase of this project. Based on the results of the research, effective approaches will be tested out through demonstration projects for victims of hate crimes in the second phase of the project. During the same phase, the results of the research will be used to raise awareness of special needs of victims of crime among the legal community and service providers. Finally, information on effective practices for responding to the needs of victims will be communicated to provincial and other stakeholders.

It should also be noted that the *Criminal Code* in Canada was recently amended to provide for "victim impact statements" – victims can read their impact statement aloud in court at the time of sentencing, so as to convey to the court the impact of the accused's hate-motivated crime upon them and their broader community.

We will continue to develop a principle- and policy-oriented approach to the use of the restorative justice model in Canada to make our justice system as responsive as possible to all Canadians.

It is important that victims of racism and hate-motivated activities appreciate that their fear, or moral outrage, can find expression in concrete legal remedy – that there are more options than doing nothing or just calling the police. Indeed, the centrality of the victim to legal remedy is anchored in the fact that avenues of legal recourse to redress racist hate propaganda and hate-motivated crime are themselves triggered by victims who file complaints with government authorities or commence private legal proceedings on their own.

8) The Super Highway of Cyber-crime: Hate on the Internet

We have come to learn that the Internet – which can transport the best in information, education, scholarship, entertainment, and commerce and even act as an antidote to racism – can also transport the worst. Indeed, what we are witnessing is a veritable explosion of hate on the Internet, particularly in the startling increase in the number of young people using it and being targeted by it. The danger in the explosion of hate on the Internet is not simply to be found in the proliferation of hate sites – from one hate site in 1995, to over 5,000 today according to some estimates (Simon Wiesenthal Centre) – but in the use and abuse of the Internet as follows:

- Hate groups have not only emerged from the dark shadows of the past to post their racist hate messages online – while hiding behind their anonymity – but they now disseminate their hate messages for a potential audience of thousands, if not millions. Indeed, many hate sites are barely a click away, making it easier for hate groups to prey on unsuspecting computer users.
- The Internet, then, is an inexpensive yet highly effective way for the compendium of hate groups to not only propagate their hate but even use the medium as a recruitment, if not also a fundraising, instrument. As one Canadian white supremacist with an Internet

homepage said, "We have big plans for the Internet . . . it's uncontrollable, it's beautifully uncensored."

- Many hate sites are being specifically organized to target children through seemingly harmless "kids pages" replete with colour graphics, crossword puzzles and games – but further inquiry reveals the games to be laced with racist and anti-Semitic themes.
- While many hate sites may be blatantly racist or bigoted in their approach, others disguise themselves as legitimate sources of information – e.g., a site that appears to be an examination of the life of civil rights leader Martin Luther King, turns out to be a racist hate site.

All this raises the question, "What is to be done about cyber-hate?" Most people – when appreciating the scope of the problem – respond by saying "There ought to be a legal remedy." Yet, as technology races, the law lags, and once again, the scientists appear to be beating the lawyers.

Accordingly, may I suggest a number of principles and perspectives which may offer a framework of inquiry on this matter:

- **A person who commits offences on the Internet is as responsible as a person who commits them using pen and paper**. The existing legal framework regarding hate speech is equally applicable to communications made via the Internet as to other means of communication. In a word, behaviour that is illegal offline is illegal online.
- **The United States and the First Amendment Doctrine.** Admittedly, under the First Amendment Doctrine of the U.S., all speech is protected speech, so that what is protected offline will also be protected online. Indeed, some U.S. attempts at regulating cyber-hate – as with the *Communications Decency Act* – were struck down when the U.S. Supreme Court ruled that such legislation was overly broad. But even in the U.S. – and under the First Amendment Doctrine – certain legal remedies are still available offline, and therefore online as follows:
    - Hate speech, which amounts to threats and intimidation, is not protected speech under the First Amendment. Accordingly, a threatening private message sent over the Internet to a victim, or a public message displayed on a Web site disclosing an intent to commit acts of racially-motivated violence, are prosecutable under the law;
    - Similarly, harassing speech is not constitutionally protected speech, as the speech in question usually amounts to impermissible conduct and not just speech;
    - Incitement to violence is yet another unprotected activity even under the American First Amendment; and
    - Libellous speech on the Internet directed toward a particular person or entity is actionable under the law just as libellous remarks uttered in any public forum.
- **Group libel on the Internet.** In most jurisdictions, and unlike the situation in the U.S., the wilful promotion of hatred or contempt against an identifiable group on the Internet is, as a matter of principle, as prohibited online as it would be offline; and the same principles respecting the prohibition of hate speech offline –as set forth earlier -- apply to the prohibition of hate speech online.
- **Hate without borders: Toward the internationalization of legal remedy.** Admittedly, the evolutionary and transnational character of the Internet technology appears to pre-empt national regulation by states. Nevertheless, the internationalization of legal remedy can provide an antidote to the borderless technology of cyber-hate, as follows:
    - It must be appreciated that the borderless technology is still subject to the normative requirements of the *International Convention of the Elimination of all Forms of Racial Discrimination*. Article 4 of the Convention requires that state parties shall criminalize the wilful promotion of hatred or contempt against identifiable groups without reference as to whether this "group libel" is committed offline or online. Indeed, the

German *Bundestag* in June 1997 passed the first comprehensive, national Internet law, pursuant to its undertakings as a state party to the Convention;

- Bilateral and multilateral treaties on mutual legal assistance provide avenues for law enforcement agents to pursue illegal behaviour on the Internet, either by facilitating the gathering of evidence, or by obtaining assistance in identifying the source of material at the international level; and
- Extradition treaties complement international cooperative efforts by permitting the extradition between states.

- **Hate without borders: Towards the domestication of transnational criminal offences.** For example, domestic laws generally do not apply beyond national borders, and enforcement of laws are generally restricted to that which takes place within a national border. Nevertheless, it is possible to establish that the transnational offence has been committed within the domestic arena so as to assume jurisdiction over it. For example, the Supreme Court of Canada, has stated, that all that is necessary to make an offence subject to the jurisdiction of Canadian courts is that a significant portion of the activities constituting that offence have taken place in Canada – i.e., the presence of a "real and substantial" link.
- **Codes of conduct.** States should establish working groups consisting of NGOs, Internet service providers, connectivity providers, associations of Internet service providers, and relevant government officials:
  - To develop an appropriate code of conduct for the Internet industry; to monitor hate propaganda and other forms of intolerance by state nationals on the Internet; to issue yearly reports on the sources of hate propaganda and related measures to prevent it;
  - For example, the *Code of Conduct* of the *Canadian Association of Internet Service Providers* (CAIP) maintains that its members will not knowingly host illegal content, and that they will make reasonable efforts to investigate legitimate complaints about illegal content or network abuse, and will take "appropriate action" against those who violate the Code.

    The *Code of Practice* of the *Internet Service Providers Association* (ISPA) of the United Kingdom, which was originally voluntary but became mandatory for members in 1997, states that members "shall use their reasonable endeavours to ensure services and promotional material do not contain material inciting violence, sadism, cruelty or racial hatred."

    In 1997, the *European Internet Service Providers Association* (EuroISPA) was established with seven member associations, representing over 400 ISPs across the European Union. Its stated goals are to "promote self-regulation and to influence the regulatory process on behalf of the Internet industry."
- **Civil society and the development of a human rights culture on the Internet.** Civil society initiatives can help establish a human rights culture online to combat hate on the Internet, including:
  - developing hate-watch Web sites that monitor and track hate on the Internet;
  - compiling and maintaining an up-to-date list of hate sites on the Internet which institutions, ISPs, and connectivity providers should be encouraged to block;
  - mobilizing communities to lobby ISPs and access service providers to drop Web sites that violate domestic and international law;
  - developing educational programs to help governments understand the impact of hate on the Internet and the related need for appropriate international, national and regional regulation of hate on the Internet; and
  - providing detailed information on human rights, anti-Semitism, and racism as part of public education and awareness sites.
- **Training for law enforcement of Internet crime.** These programs increase the

knowledge of law-enforcement officials about how crime is committed via the Internet, and how to gather and preserve evidence related to such crimes. Indeed, specialized policing units re hate crime on the Internet, have been developed. These law-enforcement officials have particular expertise on Internet issues and/or on subject-matter issues such as hate propaganda. Law-enforcement personnel often work cooperatively with other jurisdictions – given the transnational nature of hate on the Internet – and also work cooperatively with the Internet industry and associations of Internet providers.

In a word, this Justice initiative will explore all the remedies that are available to combat hate on the Internet – including enforcing international and domestic law where applicable; enacting new laws or amending existing laws where required; advancing self-regulation of the Internet through relevant codes of conduct and the like; and supporting "more speech" and anti-racist education on the Internet, towards developing a culture of human rights online.

In that context, specific justice initiatives will include:

- working toward the establishment of a tip line where a person can report hate crime on the Internet;
- providing public legal education and information on the definition of hate propaganda, including information to Internet service providers (ISPs), in order to enhance the capacity of the public and the ISPs to recognize hate speech when they come across it (which would also promote a common front against racism and give a role to civil society);
- signing the Protocol to the Convention on Cybercrime Concerning the Criminalisation of Acts of a Racist or Xenophobic Nature Committed through Computer Systems, which provides for international cooperation for the investigation and prosecution of racist offences on the Internet;
- considering amending the *Canadian Human Rights Act* to allow an Internet service provider to be ordered to refuse service to a person who has been found to have communicated hate messages, to the extent necessary to prevent further communication; and to hold Internet service providers liable to the extent that they knew or should have known that their facilities were being used to communicate hate messages.

9) Internationalizing the Struggle Against Hate: Implementing our International Obligations

There is clearly an important remedial international law dimension to the struggle against hate, including:

- where international treaty and customary law – and general principles of law recognized by the community of nations – can be invoked and applied to sanction racism and discrimination. In the words of the Supreme Court of Canada in the *Keegstra* case:

> *No aspect of international human rights has been given attention greater than that focussed upon discrimination. . . . This high concern regarding discrimination has led to the presence in two international human rights documents of articles forbidding the dissemination of hate propaganda material.*

- the domestication of international human rights norms, both in the enactment of domestic law pursuant to international treaties such as the *Convention on the Elimination of All Forms of Discrimination,* and in the invocation of international human rights law for the effective interpretation and application of domestic legislation;
- mutual legal assistance and international cooperation.

10) Combating Hate Crimes: The Role of Dedicated Hate Crime Law Enforcement Units

We need to increase the knowledge of law-enforcement officials about the nature of hate crimes, and how to gather and preserve evidence related to such crimes. For example, specialized policing units re hate crime on the Internet have been developed. These law-enforcement officials have particular expertise on Internet issues and/or on subject-matter issues such as hate propaganda. Law-enforcement personnel often work cooperatively with other jurisdictions – given the transnational nature of hate on the Internet – and also work cooperatively with the Internet industry and associations of Internet providers.

11) Combating Racism/Hate in the Criminal Justice System

Our justice system embraces and sustains the value that all individuals have rights, protections, and due process of law regardless of race or other distinguishing features. It seeks to hold those committing offences based on hatred or racism to account, and can provide interventions and sentences to rehabilitate offenders. The justice system, as indicated above, also supports the special needs of victims of hate and race-based crime.

Accordingly, the Justice Initiative includes the following approaches. In the initial phase, consultation and research will be conducted to determine interventions and sentences that most effectively promote accountability as well as most encourage rehabilitation for those, particularly youth, who commit hate crimes. In a second phase, and based on the research conducted in the initial phase, demonstration projects will be conducted with stakeholders and NGOs to test out interventions that encourage rehabilitation of perpetrators of hate crimes. Finally, information on effective interventions gathered through research and demonstration projects will be shared with the legal community in order to ensure that defence and Crown attorneys, as well as the judiciary, are aware of interventions that have proven most effective when it comes to recommending or imposing a sentence.

There is also a test program – arts-based – with Heritage about youth in conflict with the law for hate and racially motivated crimes. Justice contributed $50, 000 in 2004-05 and Heritage will contribute up to $50,000 in 2005-06.

In addition, this Justice Initiative will focus on examining race-based issues in the justice system. In the matter of the overrepresentation of certain groups in the justice system and perceptions of racial profiling by police and security forces, we will examine concerns that race-based considerations may be playing an inappropriate role in the criminal justice system.

The principle of equality under the law is fundamental to our justice system. Accordingly, any practice suggesting members of certain groups are being treated either more harshly or more leniently because of their race undermines criminal justice. As there is evidence that certain groups are overrepresented in the justice system, this requires a serious assessment so that effective responses can be developed. This will involve research data collection and consultations, including the cross-cultural dialogues on security policy and other issues.

Policy options, such as a policy on racial profiling, must also be developed to remove any inappropriate race-based factors from the justice decision-making process. Justice professionals must also be trained to promote impartial justice practices. Simply put, the overrepresentation of certain groups in the justice system must trigger a concerted effort to determine the causes and to test out policies and programs that will address the problem.

12) Towards a Culture of Human Rights: The Importance of Education Against Hate, Racism, Discrimination and all Forms of Intolerance

This invites a comprehensive initiative organized around:

- anti- racism education;

- Holocaust education as in the Swedish "Living History" model;
- human rights education with particular reference to the constitutionalization of equality and the promotion of human dignity;
- multicultural education and the promotion of respect for diversity and difference.

13) Confronting Hate: Raoul Wallenberg as a Metaphor for Humanity

The Canadian government has established a Raoul Wallenberg Commemorative Day (January 17) in recognition of this lost hero of humanity – this Saint Just of the Nations whom the U.N. has characterized as the "greatest humanitarian of the 20 th Century" for having saved more people in the Second World War than almost any government. This commemorative day allows Canadians to learn about, reflect upon and be inspired by the humanitarian legacy of the first of Canada's two honourary citizens (the other is Nelson Mandela), which can be an important component of a national justice initiative to combat hatred, racism and all forms of intolerance.

Raoul Wallenberg's heroism can provide an inspirational role model for Canadians generally and young people in particular.

Indeed, Raoul Wallenberg`s humanitarian legacy has particular relevance for a National Justice Initiative Against Racism and Hate where:

- in his singular protection of civilians in armed conflict, he signified the best of international humanitarian law;
- in his singular organization of humanitarian relief, he exemplified the best of humanitarian intervention;
- in his warning to Nazi generals that they would be held accountable for their crimes, he foreshadowed the Nuremberg Principles;
- in saving 100,000 Jews, he personified the idiom that when a person saves a single life it is as if he or she has saved an entire universe; and
- in having the courage to care – and the commitment to act – he showed that one person can make a difference – that one person could confront radical evil and prevail – and transform.

Date Modified: **2008-04-14**